United Nations CAC/COSP/IRG/I/3/1/Add.20

Conference of the States Parties to the United Nations Convention against Corruption

Distr.: General
31 March 2015

Original: English

Implementation Review Group
Sixth session
Vienna, 1-5 June 2015
Item 2 of the provisional agenda*
Review of implementation of the United Nations Convention against Corruption

Executive summary

Note by the Secretariat

Addendum

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II. Executive summary

Sri Lanka

1. Introduction: Overview of the legal and institutional framework of Sri Lanka in the context of implementation of the United Nations Convention against Corruption

Sri Lanka signed the Convention on 15 March 2004 and ratified it on 31 March 2004. It entered into force for Sri Lanka on 14 December 2005.

The Roman Dutch Law remains the common law of the country, while the impact on the common law system derived from the English law has had a much greater influence on the laws of Sri Lanka than the Roman tradition. The common law has been modified, both expressly and by implication by statutory law and judicial decisions. The penal provisions are set out in the Penal Code and the law relating to criminal procedure in Sri Lanka is governed by the Criminal Procedure Code; civil procedure is set out in the Civil Procedure Code.

The most important legislation with regard to the implementation of the Convention includes the Bribery Act [Cap. 26], Commission to Investigate Allegations of Bribery or Corruption (CIABOC) Act No. 19 of 1994, Prevention of Money Laundering Act No. 5 of 2006, as amended by Act No. 40 of 2011, Penal Code [Cap. 25], Code of Criminal Procedure Act No. 15 of 1979 [Cap. 26], Judicature Act No. 2 of 1978, Declaration of Assets and Liabilities Law No. 1 of 1975, Financial Transactions Reporting Act No. 6 of 2006, Establishments, Code, Bail Act No. 30 of 1997, Extradition Law No. 8 of 1977, as amended by Act 48 of 1999, and Mutual Assistance in Criminal Matters Act No. 25 of 2005.

The hierarchy of Courts of first instance is set out in Section 2 of the Judicature Act. Primary Courts, Magistrate's Courts, District Courts and High Courts are Courts of first instance. High Courts exercise appellate and review jurisdiction in some matters. The Court of Appeal and the Supreme Court are the Appellate Courts.

The institutional network of agencies involved in the fight against corruption include the CIABOC, the police, the Attorney General's Office, Financial Intelligence Unit, Inland Revenue, Committee on Public Enterprises, Judicial Service Commission and the Public Service Commission.

2. Chapter III: Criminalization and law enforcement

2.1. Observations on the implementation of the articles under review

Bribery and trading in influence (arts. 15, 16, 18 and 21)

Sections 14(a), 16(a), 17(a), 19(a), 20(a), (b), 21(a), (b), 22(a), (b), 88, 89 and 90 of the Bribery Act criminalize active bribery.

Passive bribery is covered by sections 14(b), 15, 16(b), 17(b), 19(b), 20(b), 21(c), 22(c), 22(d), 24, 89 and 89A of the Bribery Act.

The broad definition of "gratification" in section 90 of the Bribery Act covers various forms of undue advantage. Item (e) of the section additionally clarifies that gratification includes "offer, undertaking and promise", thus covering the elements

of promising and offering as required by article 15 of United Nations Convention against Corruption. That conclusion is also supported by relevant case law examples.

The Bribery Act covers different categories of public officials including judicial officers and parliamentarians (section 14), and different types of public servants (section 16, section 19).

Sri Lanka has not criminalized the bribery of foreign public officials and officials of public international organizations; however, the possibility of the adoption of relevant measures is currently being discussed.

Sri Lankan legislation does not expressly criminalize trading of influence, although some sections of the Bribery Act (sections 17 and 19) may be regarded as covering certain elements of that offence.

Sri Lanka did not criminalize bribery in the private sector, although some provisions of the Bribery Act (section 18 on bribery among bidders for government tenders) touch upon certain aspects of bribery in the private sector. To address the issue three committees were established at the level of CIABOC to consider possible legislative amendments.

Money-laundering, concealment (arts. 23 and 24)

The main elements of the offence of money-laundering are covered in the Prevention of Money Laundering Act (e.g., section 3), although no practical examples of implementation were provided.

Predicate offences include, inter alia, the offences prescribed in the Bribery Act (section 35(c) of the Prevention of Money Laundering Act) and offences subject to the death penalty or imprisonment of 5 years or more, and some offences listed in certain sections of the Penal Code, which appear to cover offences established in accordance with the Convention. Dual criminality is not required for offences committed outside Sri Lanka to be deemed predicate offences.

Sri Lankan law does not preclude a person from being charged with both money-laundering and the predicate offence.

Concealment is covered by section 3(1)(b) of the Prevention of Money Laundering Act.

Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)

Sections 386 (Dishonest misappropriation of property), 388 and 389 of the Penal Code (both on criminal breach of trust) criminalize the diversion of property by any person, including public officials. Section 392 (Criminal breach of trust by public servant or by banker, merchant or agent) and section 5(1) of the Offences against Public Property Act No. 12 of 1982 provide for the aggravated punishment of embezzlement by public officials or against public property. Case law applies similar principles to the prosecution of embezzlement in the public and the private sectors.

Abuse of functions is addressed in section 70 of the Bribery Act (Corruption), which provides a relatively comprehensive coverage of all elements of the offence stipulated in article 17 of the Convention.

Section 23A of the Bribery Act contains detailed provisions on illicit enrichment covering public officials and their family members. Sri Lankan courts would presume that any illicit enrichment is a product of bribery even though it may be a product of another corruption offence, including embezzlement or abuse of functions. Sri Lanka has also established a functional system of asset declarations for public officials which is conducive to the effective implementation of Section 23A.

Obstruction of justice (art. 25)

Section 73 of the Bribery Act (Interference with witnesses) criminalizes interfering with a witness or impeding witnesses in bribery cases.

The use of physical force, threats or intimidation to interfere with the exercise of official duties by justice or law enforcement officials is criminalized in section 23 of the CIABOC Act, section 74(1), (2), (3) and section 75(1) of the Bribery Act, and sections 183-187 of the Penal Code.

Liability of legal persons (art. 26)

The definition of "person" in section 8 of the Penal Code includes both legal and natural persons. However, there is no clarity whether the same concept applies to the "persons" referred to in the Bribery Act. Legal persons can be civilly and administratively liable based on applicable common law principles in which regard some court practice also exists. However, no examples of case law where legal persons were prosecuted for corruption-related offences exist.

Participation and attempt (art. 27)

Attempt and participation (in the form of abetment and conspiracy) are criminalized in section 25 of the Bribery Act. Additionally, relevant provisions are contained in the Penal Code (section 100 (abetment) and section 113A(1) (conspiracy)).

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)

The Bribery Act provides that relevant offences may be subject to imprisonment for up to seven years and up to ten years for corruption (section 70). Some offences are punishable with minimum mandatory sentences (e.g., section 3 of the Prevention of Money Laundering Act). Judges consider the gravity of offences when imposing penalties.

Only the President of Sri Lanka is granted immunity from criminal prosecutions. No other public officials enjoy criminal immunities.

According to sections 30A(2), (4) and 73(2) of the Bribery Act, persons suspected of accepting bribes and impeding witnesses from giving evidence may be released on bail in exceptional circumstances only.

Section 58 of the Prisons Ordinance allows for remissions of sentences and rewards for good conduct. There are no measures on early release or parole based on the gravity of the offences concerned.

The Establishments Code (section 31:1:3 and 4) provides that public officers who have been prosecuted on bribery or corruption charges may be suspended. Preliminary investigations prior to prosecution are addressed in subsection 13 of the Establishments Code. Chapter V of Regulation 40 and section 29 of the Bribery Act disqualify persons convicted by a court of a criminal offence against the State and specifically of bribery (section 29) from appointment to the public service.

The Public Service Commission of Sri Lanka can take disciplinary measures against public officials in parallel with criminal proceedings, according to sections 27 and 28 of the Establishments Code.

Sri Lanka does not have measures in the current legislation providing for the reintegration into society of persons convicted of corruption offences, although a general rehabilitation programme not specific to corruption is in place that covers all offenders.

Section 81(1) of the Bribery Act provides for a possibility of granting pardon to a participating offender who provided relevant information to facilitate a prosecution. However, the measure is limited to offences stipulated in the Bribery Act. The possibility of mitigating punishment of cooperating offenders is not provided.

Protection of witnesses and reporting persons (arts. 32 and 33)

Section 23 of the CIABOC Act provides for passive protection of witnesses against retaliation and intimidation. A bill on Witness Protection was being drafted at the time of the country visit and included comprehensive protections, including active protection measures. The bill came into operation following the country visit as the Assistance to and Protection of Victims of Crime and Witnesses Act No. 4 of 2015. Some victim protection measures are envisaged in the Code of Criminal Procedure Act and section 187 of the Penal Code.

Section 9 of the CIABOC Act provides immunity from civil and criminal liability to any person who provides information to the Commission. A partial protection of reporting persons is also possible based on the Human Rights Commission Act No. 21 of 1996 and by the Labour Tribunal based on the Industrial Dispute Act No. 27 of 1996.

Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)

The confiscation of corruption proceeds is limited to the proceeds of crimes derived from money-laundering and bribery (sections 26A, 28A(1), 39 of the Bribery Act, sections 3, 13 of the Prevention of Money Laundering Act). To that limited extent, the confiscation of instrumentalities of those two offences is provided for. Section 12 of the Prevention of Money Laundering Act provides for value-based confiscation of the proceeds of money-laundering. Based on section 13(4) of the Act, extended confiscation is also possible. Section 39 of the Bribery Act provides for the recovery of bribes from the offender to the State.

The Prevention of Money Laundering Act contains provisions on the freezing and seizure of proceeds of money-laundering (sections 7, 12). Certain general provisions relating to the identification and seizure of assets are contained in Chapter VI of the Code of Criminal Procedure and the CIABOC Act. Additionally, the identification

and tracing of corruption proceeds can be conducted based on the Financial Transaction Reporting Act.

Sections 11 and 15 of the Prevention of Money Laundering Act address the appointment of a receiver to administer frozen or confiscated property by the Court.

Section 4 of the Prevention of Money Laundering Act contains the presumption of unlawful origin of assets in money-laundering cases. A similar presumption of the unlawful origin of assets in illicit enrichment cases is contained in section 23A(1) of the Bribery Act.

Section 13(2) of the Prevention of Money Laundering Act and section 28A(1) of the Bribery Act provide for protection of the rights of bona fide third parties in confiscation proceedings.

Bank secrecy is not an obstacle to domestic criminal investigations and particularly the investigation and seizure of bank, financial or commercial records, as follows from section 5(1)(d) of the CIABOC Act, section 16 and 27 of the Prevention of Money Laundering Act and section 18 and 31 of the Financial Transactions Reporting Act.

Statute of limitations; criminal record (arts. 29 and 41)

Based on section 456 of the Criminal Procedure Code, the statute of limitations applicable to general offences (including corruption offences) is 20 years.

Previous convictions in other States are not admissible in Sri Lanka.

Jurisdiction (art. 42)

Jurisdiction is based on the Judicature Act, read with section 11 of the Code of Criminal Procedure Act. Section 9(f) of the Judicature Act establishes jurisdiction over offences committed by Sri Lankan citizens outside the country. The current legislation does not cover foreign participatory acts to money-laundering. Sri Lanka is specifically considering the possibility of establishing its jurisdiction over corruption offences when the alleged offender is present in its territory and it does not extradite him.

Consequences of acts of corruption; compensation for damage (arts. 34 and 35)

Although there is no specific statutory provision to that effect, Sri Lankan court can consider corruption as a relevant factor to annul or rescind a contract or withdraw a concession or similar instrument or take any other remedial action based on common law principles.

Parties who have suffered damage may seek remedies based on the Civil Procedure Code against others' unjust enrichment.

Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)

CIABOC is a specialized agency tasked with the investigation and prosecution of corruption offences (bribery, illicit enrichment, and offences under the Declaration of Assets and Liabilities Law). Three members of the Commission are appointed by the President and submit regular annual reports directly to him and thereafter to the Parliament. Members and officers of the Commission receive regular training.

Money-laundering, embezzlement and other Penal Code offences are investigated by the police, who have a special unit focusing on corruption offences, and prosecuted by the Attorney General's Office. Other relevant agencies include the Financial Intelligence Unit and the Public Service Commission.

Sri Lankan authorities would cooperate with and provide necessary information to the CIABOC. Public officials have a duty to report corruption offences to the Commission under the Establishments Code.

Entities in the private sector may report corruption to the Commission based on section 4 of the CIABOC Act. Financial institutions and other entities are required to report suspicious transactions in relation to financial activities pursuant to the Prevention of Money Laundering Act.

2.2. Successes and good practices

Overall, the following successes and good practices in implementing chapter III of the Convention are highlighted:

- Comprehensive coverage of subjects, elements and penalties for bribery offences in the Bribery Act.
- Section 21 of the Bribery Act criminalizing offering of any gratification to any public servant within one year before or after any dealings with that public servant's department, as a measure facilitating the prosecution of corruption offences.
- Section 24 of the Bribery Act providing for the punishment of a public servant who accepted any gratification offered in consideration of his doing or forbearing from any act, regardless of him not actually having the power, right or opportunity therefor, the lack of his intention, or that he did not in fact so act or forbear.
- Comprehensive illicit enrichment provisions set up in section 23A of the Bribery Act, also covering family members of implicated public officials in combination with a system of asset declarations of public officials.

2.3. Challenges in implementation

The following steps could further strengthen existing anti-corruption measures:

- Take necessary legislative measures to implement article 16 of the Convention against Corruption.
- Consider criminalizing trading of influence.
- Consider adopting specific legislation in accordance with article 21 of the Convention in order to criminalize bribery in the private sector.
- Furnish copies of the laws that give effect to article 23 of the Convention to the Secretary-General of the United Nations.
- Criminalize interfering with a witness or impeding a witness in all kinds of cases involving corruption offences.
- Consider directly stipulating in the Bribery Act that the definition of "person" covers both natural and legal persons.

- More clearly stipulate procedures applied with regard to release on bail.
- Consider promoting the reintegration into society of persons convicted of offences established in accordance with the Convention.
- Consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of corruption offences.
- Adopt measures to encourage persons who participate or have participated in the commission of corruption offences, other than those stipulated in the Bribery Act, to supply information to competent authorities for investigative and evidentiary purposes.
- Consider adopting additional measures in the domestic legal system to ensure that persons reporting facts concerning corruption offences are protected against any unjustified treatment.
- Adopt such measures as may be necessary to enable freezing, seizure and confiscation of proceeds derived from all offences established in accordance with the Convention.
- Introduce a provision in the relevant legislation providing for the administration by the competent authorities of frozen, seized or confiscated property representing proceeds of all offences under the Convention.
- Consider adopting legislative or other measures that would enable the consideration of previous convictions of an alleged offender, particularly during trial and sentencing.
- Consider adopting additional measures in the domestic legal system to ensure that entities or persons who suffered damage as a result of acts of corruption have the right to initiate legal proceedings against those responsible for the damage in order to obtain compensation.

2.4. Technical assistance needs identified to improve implementation of the Convention

The following forms of technical assistance could assist Sri Lanka in more fully implementing the Convention:

- Assistance in conducting an assessment of the effectiveness of measures adopted to criminalize active and passive bribery of national public officials.
- Summary of good practices, lessons learned, model legislation legislative drafting, legal advice and on-site assistance by an anti-corruption expert and development of an action plan for implementation with regard to the criminalization of bribery of foreign public officials and officials of public international organizations.
- Summary of good practices, lessons learned, model legislation legislative drafting, legal advice and on-site assistance by an anti-corruption expert and development of an action plan for implementation with regard to the criminalization of bribery in the private sector.

- Summary of good practices, lessons learned, model legislation legislative drafting, legal advice and on-site assistance by an anti-corruption expert and development of an action plan for implementation with regard to the liability of legal persons.
- Legal advice, on-site assistance by an anti-corruption expert and development of an action plan for implementation with regard to the reintegration into society of persons convicted of corruption offences.
- Model legislation, legal advice and on-site assistance by an anti-corruption expert with regard to the protection of witnesses, experts and victims.
- Model legislation, legal advice and on-site assistance by an anti-corruption expert with regard to the protection of reporting persons.
- Summary of good practices, lessons learned, legislative drafting and legal advice with regard to cooperation with law enforcement authorities.
- Summary of good practices, lessons learned, model legislation, legislative drafting and legal advice with regard to taking into account criminal records from other States in domestic criminal proceedings.
- Summary of good practices, legal advice, on-site assistance by an anti-corruption expert and legislative drafting with regard to the implementation of article 42 of the Convention on jurisdiction.
- Assistance in conducting an assessment of the effectiveness of measures adopted to implement article 34 of the Convention on the consequences of acts of corruption.
- Summary of good practices, legal advice, on-site assistance by an anti-corruption expert, legislative drafting and development of an action plan for implementation with regard to compensation for damage resulting from acts of corruption.

3. Chapter IV: International cooperation

3.1. Observations on the implementation of the articles under review

Extradition (art. 44)

Extradition is governed by the Extradition Law and the responsible authority for extradition is the Minister of Defence. Extradition may be provided without a treaty to Commonwealth countries that have been designated by order in the Gazette. A treaty is otherwise required for all other countries. For requests from both Commonwealth and treaty partners, the execution of the request is subject to the domestic laws of Sri Lanka. As a dualist country, international treaties require enabling domestic legislation to be implemented in Sri Lanka.

Extradition is subject to dual criminality and is limited to the extent that not all offences established under the Convention have been criminalized. However, the broad provision in the Extradition Act referring to offences under international crime control conventions would seem to cover all Convention against Corruption offences (see the Extradition (Amendment) Act No. 48 of 1999, Section 5).

Sri Lanka does not consider the Convention as the legal basis for extradition in respect to any corruption offences and has not made the requisite notification to the United Nations.

Sri Lanka is party to four bilateral extradition treaties, with Hong Kong (China), India, Italy and the United States of America. Simplified extradition arrangements are available under the Commonwealth Scheme on Extradition (London Scheme). Requests for extradition must be sent through diplomatic channels to the responsible authority for extradition, the Minister of Defence.

Under Sri Lanka's treaties, extraditable offences are those punishable according to the laws of both States by imprisonment for more than one year or a more severe penalty (extradition treaty with the United States (article 2(1)) and, additionally in the case of Hong Kong, China, those listed in a schedule in the treaty (Hong Kong, China, treaty, article 2(1)). This would include all Convention against Corruption offences. For extradition to Commonwealth countries with which no treaty is in place, the offence must also be described in a list in the Extradition Law and be punishable by at least one year.

Nationality is not a ground for refusing extradition under the Extradition Law; however, under Sri Lanka's bilateral treaty with Hong Kong, China, nationality is a discretionary ground for refusing extradition, and the obligation to promptly submit the case for prosecution where extradition of a national is refused is not addressed. The Judicature Act, which establishes the jurisdiction of the court, does not provide for an obligation to submit the case for prosecution if extradition has been refused. No requests for extradition of nationals have been received. No information was available from Sri Lankan authorities before or during the country visit as to whether fiscal offences satisfy the one-year imprisonment term to be extraditable under Sri Lanka's law and treaties.

The reviewing States noted that it was difficult to assess in detail Sri Lanka's practice of granting extradition in corruption cases due to the limited availability of information, the absence of data on requests made to Sri Lanka and any requests that Sri Lanka has refused, and, more generally, the absence of a specific system for collecting data. The obligation to consult with a requesting State before refusing extradition is not addressed in the Extradition Law and all bilateral treaties.

The issues of fair treatment, non-discrimination and the political offence exception have not been invoked to date.

Transfer of sentenced persons; transfer of criminal proceedings (arts. 45 and 47)

Sri Lanka has enacted the Transfer of Offenders Act, No. 5 of 1995[1] and bilateral agreements on the transfer of sentenced persons with Hong Kong (China), India, Kuwait, Maldives, Pakistan and the United Kingdom of Great Britain and Northern Ireland. To date, no case examples of transfer of persons sentenced for corruption offences were reported.

There is no law or practice on the transfer of criminal proceedings.

[1] Available at www.lawnet.lk/process.php?st=1995Y0V0C5A&hword=%27%27&path=5.

Mutual legal assistance (art. 46)

Sri Lanka's Mutual Assistance in Criminal Matters Act (MACMA) provides the legal basis for mutual legal assistance (MLA). MLA is subject to dual criminality and, except for Commonwealth countries designated by order in the Gazette, the existence of a treaty. Such treaties are in force with Hong Kong (China), Pakistan, Thailand and India. For requests from both Commonwealth and treaty partners, the execution of the request is subject to the domestic laws of Sri Lanka. Sri Lanka also subscribes to the Commonwealth (Harare) Scheme on MLA and assistance can be provided in the absence of a treaty on a case-by-case basis on the grounds of reciprocity.

The central authority for MLA is the Secretary to the Minister of Justice. Through INTERPOL, the Financial Intelligence Unit of Sri Lanka and other investigative agencies have, on the basis of reciprocity, provided informal mutual legal assistance on numerous occasions outside the statutory provisions.

MLA is limited to the extent that not all offences established under the Convention have been criminalized. However, the dual criminality requirement may be waived for MLA for a serious offence recognized under the law of Sri Lanka or of a specified country, which would not encompass Convention against Corruption offences not recognized in either Sri Lanka or the requesting country. There have been no cases where Sri Lanka provided assistance in the absence of dual criminality. No information was available as to whether Sri Lanka would render non-coercive assistance if the offence was not of a serious nature.

There have been no corruption-related requests and no requests for MLA have been refused by Sri Lanka to date. As a matter of practice, Sri Lanka appears to consult with requesting countries before refusing or postponing MLA. There have been no cases where assistance was postponed on the grounds of an ongoing criminal matter.

Representatives from the Attorney General's Office explained that evidence that is exculpatory to an accused would not have to be disclosed, although there have been no such cases to date.

Furthermore, it was explained that Sri Lanka provides grounds for refusal as a matter of practice, although there is no provision to this effect in the MACMA, and an example was provided.

Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49 and 50)

Sri Lanka is a member of the Egmont Group of Financial Intelligence Units and its law enforcement agencies also cooperate through INTERPOL. Sri Lanka's Financial Intelligence Unit has entered into agreements on mutual legal assistance that provide for the exchange of information and enhance cooperation between law enforcement agencies. Sri Lanka could use the Convention against Corruption as a basis for direct law enforcement cooperation.

Joint investigations are provided for in agreements entered into with other States and could be undertaken on a case-by-case basis through the establishment of memorandums of understanding or other agreements or arrangements. Examples of non-corruption-related joint investigations were provided.

Although there are no specific legal provisions to allow for special investigative techniques, there is no prohibition to permit the use of such techniques as long as the evidence collated is in an admissible form.

3.2. Successes and good practices

- Sri Lanka may provide assistance in the absence of dual criminality for requests involving serious offences, and it was explained that these would include Convention against Corruption offences.
- The forms for MLA requests included in the schedule to the MACMA provide certainty to requesting countries as to the required content for MLA requests.

3.3. Challenges in implementation

The following steps could further strengthen existing anti-corruption measures:

- Adapt information systems to allow Sri Lanka to collect data on the origin of international cooperation requests, the time frame for their execution, and the response provided, including the offences involved and any grounds for refusal.
- Review the list of gazetted Commonwealth countries to ensure that all Commonwealth countries are covered (for both extradition and MLA).
- With respect to extradition, enhance knowledge of the extradition procedure and the role of the responsible authority for determining extradition requests among relevant authorities.
- Concerning extradition to Commonwealth countries with which no treaty is in place, consider whether the list-based approach to extradition affords sufficient flexibility to grant extradition to these countries for specific acts of corruption and to amend the list as needed to respond to corruption-related requests, including in future cases.
- Consider reviewing domestic requirements regarding the application of multilateral treaties such as the Convention as a legal basis for extradition.
- Provide the notifications under paragraph 6 of article 44 and paragraphs 13 and 14 of article 46.
- Amend relevant bilateral treaties to ensure that nationality is not a ground for refusing extradition and to include the obligation to promptly submit a case for prosecution where extradition of a national is refused.
- Include the *aut dedere aut judicare* obligation in its future extradition treaties.
- Consider adopting measures establishing that Sri Lanka will consider enforcing the remainder of a foreign sentence where extradition of nationals is refused.
- Ensure that requests for extradition regarding fiscal offences would not be refused.
- Amend the Extradition Law and relevant bilateral treaties to include a provision on the obligation to consult with a requesting State before refusing extradition.

- With respect to MLA, include appropriate measures to facilitate the provision of non-coercive MLA when the offence is not of a serious nature in the MACMA and MLA treaties.
- Take appropriate measures to render non-coercive assistance (para. 9, art. 46).
- Consider comprehensively reviewing the forms for MLA requests against the measures set forth in paragraphs 15 and 16 of article 46 to ensure adequate guidance to requesting countries.
- Consider adopting a checklist for MLA to serve as an administrative tool for authorities handling MLA requests.
- Consider clarifying the manner in which MLA requests are executed, particularly in the case of non-treaty partners (art. 46, para. 17).
- Continue to consider adopting relevant measures to allow for evidence to be taken and hearings to be conducted in criminal cases by video, including through relevant amendments to the Evidence Ordinance.
- Review legislation and procedures with regard to the disclosure of evidence exculpatory to an accused.
- Amend the MLA law to add a limitation on use clause.
- Consider including a confidentiality provision in the MLA Act, in particular for non-treaty and non-Commonwealth countries
- Amend the MACMA to provide that grounds for refusal shall be communicated.
- Amend the MACMA to include a provision on the timely execution of MLA requests and the provision of information on the status of requests.
- Consider specifying legislation and future treaties to provide greater legal certainty with regards to postponing MLA on the grounds of ongoing criminal matters.
- Amend the MACMA and relevant treaties to include a duty to consult before refusing or postponing MLA.
- Strengthen measures and efforts in international law enforcement cooperation, in particular channels of communication and cooperation in the investigation of specific cases.

3.4. Technical assistance needs identified to improve implementation of the Convention

Sri Lanka indicated that it would require technical assistance, including legal advice and capacity-building, on extradition, MLA and the transfer of criminal proceedings. In addition, it would require legal and technical assistance to assess the effectiveness of its measures on the transfer of offenders and the use of special investigative techniques. Furthermore, Sri Lanka indicated that a summary of good practices/lessons learned and capacity-building programmes would assist in enhancing law enforcement cooperation.